IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6206 OF 2006

Pradip Pandurang Chavan & Ors. ..Petitioners

Vs.

Dattajirao Maruti Pawar ..Respondent

Mr.Milind Deshmukh for the petitioners

Mr.Uday P.Warunjikar for the respondent

CORAM : A.P.DESHPANDE, J

DATED : 22ND NOVEMBER, 2006

P.C.:

1. This petition is filed by the original plaintiffs who had approached the trial court by making a grievance that the respondent has constructed a wall adjacent to the window of the plaintiffs thereby obstructing the easementary right to light and air. The petitioner further claims that the encroachment is made by the respondent on the one feet lane in between the two houses which is owned by the plaintiffs / petitioners. The application moved by the

petitioner claiming temporary injunction was allowed by the trial court. However, in Misc Civil Appeal preferred by the respondent, the order passed by the trial court is reversed and the application is rejected. Aggrieved thereby, the present writ petition has been filed.

2. This court while issuing notice on 19.9.06 passed an order of statusquo, on account of which the respondents have stayed the on going construction. Photographs are placed on record which indicates that the construction is half way. Basement seems to be already constructed and first floor construction is in progress.

3. The learned counsel for the respondent submits that the respondent be permitted to complete the construction. The learned counsel for the respondent states that if it is ultimately found that the said construction goes to obstruct the easementary right of the plaintiffs then the respondent will clear the obstruction and will not

claim any equity in that regard.

4. In the peculiar facts and circumstances of the present case, I direct the trial court to decide the suit as expeditiously as possible and at any rate within 6 months from today. In view of the statement made by the learned counsel for the respondent, I refuse to interfere with the impugned order and dismiss the petition summarily.

(SHRI A.P.DESHPANDE, J)